

Jackson Township Board of Zoning Appeals
February 1, 2024

Members Present: Patrick Snyder
Edward McDonnell
Jared Singer
Randy Alexander-Alternate
Zoning Inspector: Joni Poindexter
Absent Members: Debbie Busby
Steven Gosney

5:00 PM Appeal # 20231000 – Keith Nutter, 3220 Miles NW, Canton, Ohio 44718 property owner, requests a conditional use permit for a Bed and Breakfast-Residential where a conditional use permit is required per Art. IV Sect. 401.3 of the zoning resolution. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Mr. Snyder read the file application and contents of the file into the record.

Mr. Snyder swore in those in favor of the appeal.

Mr. Keith Nutter, 3220 Miles NW, Canton, Ohio 44718 explained they would like to have a conditional use permit for a residential bed and breakfast. It is in the back of the house and they only rent when they are home. They have been doing this for the last two years and they had 62 rentals for 102 nights. They have had no issues and only positive experiences with their guest. Mr. Nutter supplied the answers to the criteria and stated he has not had any issues with the neighbors.

Mr. Singer stated in looking at the response item C talks about the hours of operation and asked if there are any quiet hours that he has established.

Mr. Nutter stated the quiet hours are 10 pm to 6 am.

Mr. McDonnell asked how many rooms they rent.

Mr. Nutter stated there is only one guest room and the guest park in the driveway. His driveway is large so there is plenty of parking.

McDonnell asked if there would be any problem with the board putting a condition that there would be no on-street parking for the bed and breakfast.

Mr. Nutter stated he did not have a problem with the condition.

Mr. Snyder swore in Nancy and Darrell Kahler, 3207 Miles NW. Canton, Ohio.

Ms. Kahler stated they are aware of the variances. Mr. and Mrs. Nutter keep everything nice and they didn't even realize they rented out a room. They have no problem with the request.

Mr. Kahler stated that he agreed with his wife.

Mr. Snyder swore in Wanda Ward 3301 Miles NW, Canton, Ohio. Ms. Ward stated that the Nutters have put their heart and soul in their property and have a well maintained home. No one would know that they host an AirBNB. They are wonderful neighbors.

No one else spoke in favor of the appeal and no one spoke in opposition to the appeal.

Mr. Snyder closed the appeal to public input.

Mr. Singer stated based off of Section 431 of the zoning resolution he doesn't see anything that is not in compliance and there is no one that is not in favor so he supports the conditional use.

Mr. McDonnell stated that Mr. Nutter indicated that they are using the existing driveway. He would like to put on the condition that there will not be any on-street parking for guests.

Mr. McDonnell made a motion to approve appeal #20231000 with the condition that there will not be any on-street parking for guests. Mr. Singer seconded the motion.

The vote was: Mr. Alexander-yes, Mr. McDonnell-yes, Mr. Singer-yes, and Mr. Snyder-yes.

5:15 PM Appeal # 2023966 – Keith Nutter, 3220 Miles NW, Canton, Ohio 44718, property owner, requests #1-Variance for a 2 ft. north (left) side yard setback for shed (labeled #6 on site plan) where 10 ft. is required, #2- Variance for a 25 ft. east (rear) and 42 ft. north (left) setback for chicken coop, (labeled as #8 on site plan) where 50 ft. is required, #3 a total of 1,557 sq. ft. of structures where 1,200 is permitted per Art. IV Sect. 401.12(A)(3) of the zoning resolution, #4 -Variance for a 7' south (right) side yard setback for above ground swimming pool,(labeled #12 on site plan) where 10 ft. is required, and #5-Variance for an 8 ft. south (right) side yard setback for a pool deck (labeled as #12 on site plan) where 10 ft. is required. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Mr. Snyder read the file application and contents of the file into the record.

Mr. Snyder swore in Keith Nutter, 3220 Miles NW, Canton, Ohio 44718

Mr. Keith Nutter, 3220 Miles NW, Canton, Ohio 44718.

Mr. Nutter gave the board a google earth photo showing what the property looked like when they bought it and stated that there were large trees and open grass on the property. The photo on the second page is the same view but it was taken in the winter. The pine trees were removed by AEP. They put the chicken coop in about 8 years ago. It is surrounded by a garden and walkway. The chickens are enclosed and are not free range. The run area is totally enclosed. They do not have any roosters. Behind them is a 15 ft. hedge row so it is totally enclosed with bushes. From the street you may not even see it. Some of the neighbors have gotten eggs from them and they have no issues with the chickens. The coop is regularly cleaned out.

Mr. Nutter stated regarding the shed that is shown as #6, he previously had a small plastic 9 x 10 shed that they moved to the back of the property when they built the new one. They keep all their garden items in the shed. When he built the shed he had just had his house resided so he matched the shed siding with the house siding.

Mr. Snyder stated the request is for 2 ft. from the property line.

Mr. Nutter stated Tim Beck owns the house next door and said he has no problem with the shed being there. There is a hedge row beside the pool and deck that is next to the garage. The neighbor does not have any issues with the pool location. It is a 15 ft. pool and was centered with the property line and garage so he can have access to the pool. It has been there 7 or 8 years.

Mr. Snyder stated the pool appears to be 7 ft. and the deck 8 ft. from the property line.

Mr. Nutter stated yes. Unless you walk the property you wouldn't even know it's there because of its location.

Mr. Snyder reviewed the structures on the property and stated they add up to 1,557 sq. ft.

Mr. Nutter stated yes. He also has bee hives on the property. They worked hard on the property and there are grapes, a strawberry patch, fruit trees, flower gardens and a koi pond located in the yard. He has the sheds to store his garden items in so the property looks nice.

Mr. Snyder reviewed the structures that have and don't have permit.

Mr. Nutter stated the garage was there when he purchased the property and the other two permits were recently approved for the buildings that meet the setbacks.

Mr. Snyder verified that a variance was granted for the bee hives in 2014.

Mr. Alexander asked when the bigger shed was constructed.

Mr. Nutter stated he started it in June 2023. The chicken coop was put in in 2015 or 2016.

Mr. Alexander asked when the pool and deck was put in.

Ms. Poindexter stated the pool was put in in 2016 and the deck was put in in 2017.

Mr. Alexander asked why Mr. Nutter did not contact zoning about the pool.

Mr. Nutter stated he didn't think about it. He was originally going to put in an 18 ft. pool but it was too big.

Mr. Alexander asked if there was a complaint regarding the structures on the property.

Ms. Poindexter stated no. The investigator saw the structures.

Mr. McDonnell stated the first photo that was given to the board by Mr. Nutter was marked as exhibit A and the second is exhibit B.

Mr. McDonnell stated there was a permit for the greenhouse and small shed and asked why a permit was not obtained for the other shed.

Mr. Nutter stated he didn't think to apply for a permit for the other shed.

Mr. Nutter stated he got a variance for the bee hives because someone complained.

Mr. McDonnell stated variance# 1 is for a 2 ft. setback and asked why it could not be moved 8 ft. more feet away from the property line.

Mr. Nutter stated there is some landscaping in the area and it would be in the middle of the yard.

Mr. McDonnell stated variance #2 if for the chicken coop. A variance was obtained for the bee hive so Mr. Nutter should have known he needed a 50 ft. setback. Mr. McDonnell asked way the coop could not be moved to meet the 50 ft. setback from the property line.

Mr. Nutter stated they have brick walkways, cherry trees and a flower bed on the property.

Mr. McDonnell asked why it could not be moved 8 ft. to the right.

Mr. Nutter stated it would put it in the driveway.

Mr. McDonnell asked why the pool could not be moved.

Mr. Nutter stated it would be right up against the garage and the location allows him to get around the property for maintenance.

Mr. McDonnell stated going back to variance #1, is the shed permanently attached.

Mr. Nutter stated it is setting on blocks.

Mr. Snyder asked if Mr. Nutter wanted them to vote on each variance individually.

Mr. Nutter stated yes.

Mr. Snyder swore in Mr. and Mr. Kahlan 3207 Miles NW, Canton, Ohio.

Mr. Kahlan stated he has no problem with any of the variances and they are great neighbors. They get eggs from them when available.

Ms. Kahlan stated Ms. Nutter gave her a tour of the back yard. It is very beautiful with the gardens and trees. It looks really nice and adds to the neighborhood.

Mr. McDonnell stated he wanted Mr. and Mrs. Kahlan to understand that the variance stays with the property. The Board does not grant variances based on whether someone is a good neighbor because someone else could move in there that is nasty. The board can only look at the property.

Ms. Kahlan stated she understands.

Mr. Snyder swore in Ellie and Julia Brooks, 3310 Miles NW, Canton, Ohio.

Ellie Brooks stated they live to the north and are tenants of Tim Beck.

Ms. Brooks stated regarding the shed that is 2 ft. from the property line, they have no issue with it. The variance will not impact their yard. They have never had any issues with chickens either.

No one else spoke in favor of the appeal and no one spoke in opposition to the appeal.

Mr. Nutter stated as a whole they look at the property and his wife gives a lot of thought to where things are. They look at the space they have and try to do the best they can. They like to be outside so the structures were laid out the property to be beautiful.

Mr. Snyder closed the appeal to public input.

Mr. McDonnell asked Ms. Poindexter, in general, if the board grants a variance, for example the 2 ft. shed variance, if they don't specify it is only for the footprint for the shed then the variance goes along the entire property line and if the board doesn't specify it is only for a chicken coop than any other agricultural use could be put on the property.

Ms. Poindexter state that is correct.

Mr. Singer asked Ms. Poindexter if the request for the variance has to run with the property or can it be conditional on the owner.

Ms. Poindexter stated the variance runs with the property.

The board discussed and voted on each variance as follows:

Variance #1-Shed 2 ft. from north (left) side yard setback.

Mr. McDonnell stated regarding variance #1 for a 16 x 16 sq. ft. shed, the testimony was there is a garden area and other items in the area making it difficult to move the shed. In the practical difficulty Section 803.5(B) under special circumstances,-he doesn't find anything that makes it peculiar. He thinks the variance is substantial. It is an 80% variance and is huge. The gardens and plantings are a result of the

owner. The shed is moveable and he doesn't think it would be that difficult to move. He has an issue with the variance. He suggests if the variance is approved it applies only to the footprint of the existing shed.

Mr. Snyder stated he agreed with Mr. McDonnell.

Mr. Alexander agreed with Mr. McDonnell and stated a permit was received for a smaller shed but not this one.

Mr. Singer stated based on the resolution an 80% request is substantial. He has a note that the smaller shed was there before he purchased the property but this is substantial.

Mr. McDonnell made a motion to approve variance #1 for appeal #2023966 with the condition that the variance applies only to the footprint of the existing shed. Mr. Snyder seconded the motion.

The vote was: Mr. Alexander-No, Mr. McDonnell-no, Mr. Singer-no, and Mr. Snyder-yes.

Variance #2-25 ft. east (rear) and 42 ft. north (left) setback for Chicken Coop.

Mr. Snyder stated there was previous variance for bee hives at a 15 ft. rear yard setback. The 42 ft. on the side is not significant and the 25 ft. is a greater setback than the bee hives so he is okay with the variance.

Mr. Singer agreed with Mr. Snyder because the bees were at a lesser setback.

Mr. McDonnell stated in the motion it needs to be noted that it is only for the chicken coop because an agricultural use could be a horse, cow, hog, etc.

Mr. Singer stated that he supports Mr. McDonnell's comments.

Mr. Snyder made a motion to approve variance #2 for appeal #2023966 specifically that it is for the chicken coop that is 10 x 16 sq. ft. Mr. Singer seconded the motion.

The vote was: Mr. Alexander-Yes, Mr. McDonnell-No, Mr. Singer-Yes, and Mr. Snyder-Yes.

Variance #3-Total of 1,557 sq. ft. of accessory structures on property.

Mr. Snyder stated the variance is a 23% increase over what is allowed. Based on what they previously voted on it should be based on the existing structures, unless it does not matter.

Mr. McDonnell stated it does not matter. They had a similar variance to increase the amount of structures but it was for 13 acres. His concern is the applicant has difficulty putting structures on the property without a variance. He is torn between voting for or against it.

Mr. Singer stated the lot is 0.69 acres. If you look at Section 401.12 A it says the maximum limit for over 1 acre is 3% of the lot. If you take 3% of this lot the maximum would be 901 sq. ft. instead of 1,200 that is permitted for an acre or less so 1,200 sq. ft. is more generous than the 3% rule. Following the resolution the difference is 357 sq. ft. That is not double so he thinks it is the minimum from a property standing point and they should not consider if a permit was obtained or not and only look at the square footage.

Mr. McDonnell agreed.

Mr. Singer stated he doesn't think this is an out of ordinary request.

Mr. Singer made a motion to approve variance #3 for appeal #2023966 as requested for 1557 sq. ft. of structures. Mr. Snyder seconded the motion.

The vote was: Mr. Alexander-yes-, Mr. McDonnell-yes, Mr. Singer-yes, and Mr. Snyder-yes.

Variance #4-Seven (7 ft.) foot south (right) side yard setback for above ground pool.

Mr. Singer stated the reason for the positioning of the pool is so he can get around the pool for maintenance so he doesn't believe he has an issue with the variance.

Mr. Snyder agreed with Mr. Singer.

Mr. McDonnell stated when he looks at it, he looks at how he would have voted even if a permit was applied for. He thinks the applicant explained why the pool is located where it is and he thinks it is important to get around the pool. He is inclined to grant the variance with condition that the variance only applies to the footprint of the current pool.

Mr. Singer agreed.

Mr. McDonnell made a motion to approve variance #4 for appeal #2023966 as requested for the footprint of the current pool. Mr. Alexander seconded the motion.

The vote was: Mr. Alexander-yes, Mr. McDonnell-yes, Mr. Singer-yes, and Mr. Snyder-yes.

Variance #5-Eight (8ft.) foot south (right) side yard setback for pool deck.

Mr. McDonnell stated his comments are the same comments as #4.

Mr. Snyder agreed.


Mr. Singer made a motion to approve variance #5 for appeal #2023966 as requested for the existing pool deck at the at existing location around the above ground swimming pool. Mr. Alexander seconded the motion.

The vote was: Mr. Alexander-yes, Mr. McDonnell-yes, Mr. Singer-yes, and Mr. Snyder-yes.

Mr. Snyder made a motion to approve the meeting minutes from the January 25, 2024 meeting. Mr. McDonnell seconded the motion.

The vote was: Mr. Alexander-yes, Mr. McDonnell-yes, and Mr. Snyder-yes.

Respectfully submitted,



Joni Poindexter

Jackson Township Zoning inspector

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #20231000**

Upon the hearing, the Board determined that the conditional use permit would allow for a Bed and Breakfast-Residential where a conditional use permit is required per Art. IV Sect. 401.3 of the zoning resolution. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

That the conditional use permit criteria has been met.

Whereas, the Board further:

Denied _____

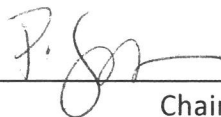
Approved X

The conditional use permit to allow for a Bed and Breakfast-Residential where a conditional use permit is required per Sect.401.3 of the zoning resolution with the condition that there would not be any on street parking for the guests.


Mr. McDonnell made a motion to approve appeal #20231039 with the condition that there would not be any on street parking for the guests.

Mr. Singer seconded the motion.

The vote was: Mr. Snyder-Yes
Mr. McDonnell-Yes
Mr. Alexander-Yes
Mr. Singer-Yes



Chairman



Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2023966
Variance #1

Upon the hearing, the Board determined that variance #1 would allow for a 2 ft. north (left) side yard setback for shed (labeled #6 on site plan) where 10 ft. is required Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

Variance #1-2 ft. north side yard setback for shed did not meet the practical difficulty requirement and is a substantial variance.

Whereas, the Board further:

Denied X

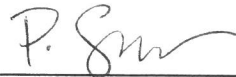
Approved

The variance for a 2 ft. north (left) side yard setback for shed (labeled #6 on site plan) where 10 ft. is required.

Mr. McDonnell made a motion to approve variance #1 for appeal #2023966 with the condition that it applies only to the footprint of the existing shed.

Mr. Snyder seconded the motion.

The vote was: Mr. Snyder-Yes
 Mr. McDonnell-No
 Mr. Alexander-No
 Mr. Singer-No



Chairman



Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2023966
Variance #2

Upon the hearing, the Board determined that variance #2 would allow for 25 ft. east (rear) and 42 ft. north (left) setback for chicken coop, (labeled as #8 on site plan) where 50 ft. is required. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

Variance #2 was not a substantial variance and a 15 ft. setback was previously approved for the Bee Hives, which is also an agricultural use.

Whereas, the Board further:

Denied _____


Approved X

The variance for a 25 ft. east (rear) and 42 ft. north (left) setback for chicken coop, (labeled as #8 on site plan) where 50 ft. is required with the condition that it specifically applies to the chicken coop that is 10 x 16 sq.

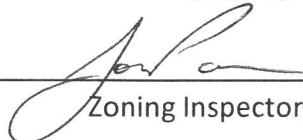
Mr. Snyder made a motion to approve variance #2 for appeal #2023966 with the condition that it applies only to the footprint of the existing shed.

Mr. Singer seconded the motion.

The vote was: Mr. Snyder-Yes
Mr. McDonnell-No
Mr. Alexander-Yes
Mr. Singer-Yes



Chairman



Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2023966
Variance #3

Upon the hearing, the Board determined that variance #3 would allow for 1,557 sq. ft. of accessory structures where 1,200 sq. ft. is permitted. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

Variance #3 was not a substantial variance and is only a difference of 357 sq. ft.

Whereas, the Board further:

Denied _____

Approved X _____

The variance for 1,557 sq. ft. of accessory structures on the property where 1,200 sq. ft. is permitted.

Mr. Singer made a motion to approve variance #3 for appeal #2023966 for 1,557 sq. ft. of accessory structures on the property.

Mr. Snyder seconded the motion.

The vote was: Mr. Snyder-Yes
Mr. McDonnell-Yes
Mr. Alexander-Yes
Mr. Singer-Yes



Chairman



Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2023966
Variance #4

Upon the hearing, the Board determined that variance #4 would allow for an above ground swimming pool at a 7 ft. south (right) side yard setback where 10 ft. is required. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

Variance #4 was not a substantial variance and allows for maintenance around the pool.

Whereas, the Board further:

Denied _____

Approved X _____

The variance for a 7 ft. south (right) side yard setback for an above ground swimming pool with the condition that the variance only applies to the footprint of the current pool.

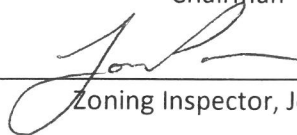
Mr. McDonnell made a motion to approve variance #4 for appeal #2023966 for an above ground swimming pool with the condition that the variance only applies to the footprint of the current pool.

Mr. Alexander seconded the motion.

The vote was: Mr. Snyder-Yes
Mr. McDonnell-Yes
Mr. Alexander-Yes
Mr. Singer-Yes



Chairman



Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2023966
Variance #5

Upon the hearing, the Board determined that variance #5 would allow for an 8 ft. south (right) side yard setback for a pool deck where 10 ft. is required. Property located at 3220 Miles NW, Sect. 25SE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

Variance #5 was not a substantial variance and allows for maintenance around the pool deck.

Whereas, the Board further:

Denied _____


Approved X _____

The variance for an 8 ft. south (right) side yard setback for the existing deck at the existing location around the above ground swimming pool.

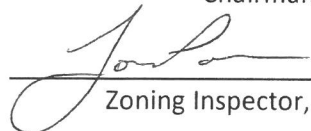
Mr. Singer made a motion to approve variance #5 for appeal #2023966 for the existing deck at the existing location around the above ground swimming pool.

Mr. Alexander seconded the motion.

The vote was: Mr. Snyder-Yes
Mr. McDonnell-Yes
Mr. Alexander-Yes
Mr. Singer-Yes



Chairman



Zoning Inspector, Joni Poindexter